



November 13, 2023

VIA E-FILING

The Honorable Maryellen Noreika
J. Caleb Boggs Federal Building
844 N. King Street
Unit 19, Room 4324
Wilmington, DE 19801-3555

**Re: *AlterWAN, Inc. v. Amazon.com, Inc., et al.*
(C.A. No. 19-cv-1544-MN)**

Dear Judge Noreika:

The parties jointly and respectfully write with a proposal to streamline the scheduling of further proceedings in the above action.

On September 8, 2023, the Court vacated the remaining case schedule and directed the parties to submit a new proposed schedule. D.I. 337. The parties' new proposed schedule included agreement on many deadlines, including a proposed October 11, 2023 *Markman* hearing, but it also reflected a number of substantive disagreements that we were not able to resolve, having to do with the nature and scope of proceedings that should be permitted on remand. D.I. 339. Both because of the passage of the proposed *Markman* hearing date and other proposed dates, and because of conflicting deadlines that now have been imposed in other matters, the parties have concluded that their proposed schedule no longer is viable.

The parties are in agreement that the Court's construction of the pending claim terms, including "non-blocking bandwidth," may again be case dispositive. Therefore, instead of spending time at the outset resolving fundamental disputes concerning the scope of proceedings on remand and ironing out a case schedule, all of which could prove to have been unnecessary, the parties respectfully propose that for now Your Honor just schedule a *Markman* hearing and give AlterWAN 14 days after receipt of the Court's claim construction decision to elect whether it will proceed to trial or will stipulate to non-infringement in order to appeal the claim construction issue. If the former, we can address the disputes concerning the remaining case schedule at that time. If the latter, none of that time ever will need to be spent.

If the parties' proposal is acceptable, we note that both sides are available for a *Markman* hearing on any of the following dates if convenient for the Court: November 30, December 18, or December 19, 2023. If none of those dates is convenient for the Court, counsel would be pleased to follow up with Ms. Welham to find a mutually available date.

The parties appreciate the Court's consideration of this request.

Respectfully submitted,

/s/ Michael J. Farnan

Michael J. Farnan

cc: Counsel of Record (Via E-Filing)